S.B. 874

By: Caperton

Senate Bill Analysis
Senate Jurisprudence Committee
6-5-89
Enrolled

BACKGROUND

In 1939, the Texas Legislature delegated to the Texas Supreme Court the authority to promulgate rules of civil procedure. That authority was to take effect on and after September 1, 1941. The Act also repealed existing procedural statutes. From time to time, however, the Legislature has enacted statutory rules of civil procedure, and the Supreme Court has consistently held that the right of the Legislature to provide for rules of civil procedure is superior to that of the Court. In 1985, a variety of statutes were codified into the Government Code, including the Act delegating rulemaking power to the Supreme Court. The Texas Legislative Council interpretated the language of 1939 Act as giving the Supreme Court the power to repeal any procedural statutes that the Legislature might enact, and the codification reflected that interpretation. In the last few years, the Court has relied on the codified language and its own constitutional rulemaking power to repeal statutes passed by the Legislature.

PURPOSE

As proposed, S.B. 874 provides that the Supreme Court may not promulgate a rule that conflicts with a statute, deletes language that allows the court to repeal a statute by promulgating a rule that conflicts with a statute, and allows the Court to submit to the Texas Judicial Council a list of statutes it believes the legislature should repeal.

EFFECT ON CURRENT LAW

Amends Government Code, <22.004(a) and (c).

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 22.004(a) and (c), Government Code, as follows:

(a) Prohibits the supreme court rules from conflicting with a statute.

(c) Allows the supreme court to send the Texas Judicial Council a list of articles or sections of law that relate to the practice and procedure in civil actions that should be repealed and replaced by a rule adopted by the court.

SECTION 2. Provides that the Act does not affect the validity of a rule adopted before the effective date of the Act, and the Act does not revive any part of a statute repealed under Section 22.004, Government Code, before the effective date of this Act.

SECTION 3. Emergency clause.
        Effective date: upon passage.